

UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

IN RE:

Chapter 9

City of Detroit, Michigan,

No. 13-53846

Debtor.

Hon. Steven W. Rhodes

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**LIMITED OBJECTION BY THE DETROIT PUBLIC SAFETY UNIONS  
TO THE DEBTOR'S MOTION FOR ENTRY OF AN ORDER  
ESTABLISHING BAR DATES FOR FILING PROOFS OF CLAIM AND  
APPROVING THE FORM AND MANNER OF NOTICE THEREOF**

The Detroit Fire Fighters Association (the "DFFA"), the Detroit Police Officers Association (the "DPOA"), the Detroit Police Lieutenants & Sergeants Association (the "DPLSA") and the Detroit Police Command Officers Association (the "DPCOA") (collectively, the "Detroit Public Safety Unions"), through their counsel, Erman, Teicher, Miller, Zucker & Freedman, P.C., state their limited objection to the Motion of Debtor, Pursuant to Sections 105, 501 and 503 of the Bankruptcy Code and Bankruptcy Rules 2002 and 3003(c), for entry of an Order Establishing Bar Dates for Filing Proofs of Claim and Approving Form and Manner of Notice Thereof (the "Motion") as follows:

1. The Detroit Public Safety Unions represent, between them, approximately 3000 members of the Detroit Police and Fire Departments (hereinafter referred to as the “DPSU member(s)”).

2. This objection is filed to address claims of the DPSU members with respect to (a) pending grievances and (b) claims for defense and indemnification arising out of tort claims filed against the City and/or particular DPSU members.

### I. Grievances

3. At any given time, DPSU members have work-related grievances. Presently, it is estimated that there are several hundred grievances pending against the City.

4. As proposed, the Motion seeks to require that each DPSU member file a Proof of Claim by the General Bar Date in order to assert recovery for that member’s particular grievance. By their very nature, in order to pursue a grievance, a claim asserting a grievance has already been filed on behalf of the DPSU member. Pre-petition, there were established grievance procedures. (These procedures have been stayed for pre-petition grievances.) Adding the requirement that a Proof of Claim be filed relative to an already filed pre-petition grievance would be an extremely burdensome, complicated and confusing process for each grievant in light of the already filed grievance.

5. The Detroit Public Safety Unions propose that the following procedures be approved relative to the DPSU members' pre-petition grievances:

(a) That the DPSU members who have pre-petition grievances do not need to file a Proof of Claim by the General Bar Date, and that their existing grievance serves as their Claim; or

(b) Alternatively, that each of the DFFA, DPOA, DPLSA and DFFA are authorized to file an omnibus Proof of Claim by the General Bar Date for its members which lists the grievances for each Union's respective members;

(c) 5(a) and 5(b) above are without prejudice to the right of any DPSU member to file a claim on his or her own behalf.

## II. Defense and Indemnification claims arising from tort claims against the City.

6. There are a number of DPSU members who have, or may have, defense and indemnification claims against the City, arising out of tort claims by third parties (the "Indemnification Claims"), typically where a DPSU member is named as a defendant along with the City. The City's defense and indemnification obligation involves, among other things, legal representation and payment of any judgments against the DPSU member.

7. The full extent of Indemnification Claims is presently unknown. With respect to any DPSU member, the full extent of the City's indemnification obligation is not known until the tort claim is resolved.

8. This creates at least two distinct problems: (1) a DPSU member may not know that he/she has an Indemnification Claim prior to the General Bar Date (because the City has, in the ordinary course, assumed defense of the claim); or (2) a DPSU member will not know the amount of the Indemnification Claim until resolution of the tort claim from which the Indemnification Claim arises.

9. Further, when the City settles or otherwise resolves a tort claim, such resolution must also include any claim against a DPSU member. When the tort claim is resolved, any such resolution must include a dismissal with prejudice of and a full, final and complete release of all claims against the DPSU member defendant. Thus, such resolution would also resolve the Indemnification Claim.

10. All Indemnification Claims must be resolved at the same time as the related tort claim. The failure to do so would potentially extinguish a DPSU member's right of indemnification or leave them with a monetary claim for indemnification which will potentially be paid only pennies on the dollar.

11. In light of the proposed claims process, it would be extremely cumbersome for all of the DPSU members to file Proofs of Claim by the General

Bar Date asserting their Indemnification Claims. Therefore, the Detroit Public Safety Unions propose that

(a) each of the DFFA, DPOA, DPLSA and DFFA be authorized to file an omnibus Proof of Claim by the General Bar Date for its members which indicates that each member may have an Indemnification Claim;

(b) 11(a) is without prejudice to the right of any DPSU member to file a claim on his or her own behalf.

12. The Detroit Public Safety Unions further propose that the procedures that will be established for determination of the tort claims include resolution of the Indemnification Claims, which should include a dismissal with prejudice of and a full, final and complete release of all claims against the DPSU member defendant at the time the tort claim is resolved.

Respectfully submitted,

ERMAN, TEICHER, MILLER,  
ZUCKER & FREEDMAN, P.C.

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